

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Richard Ina, et al.,

Plaintiffs,

v.

CV Sciences, Inc., et al.,

Defendants.

Case No. 2:18-cv-01602-JAD-BNW

ORDER

The court granted in part and denied in part Plaintiff's Motion to Compel at ECF No. 88 from the bench on December 3, 2020. The defendants filed a response to that motion, which was also separately filed as a Motion for a Protective Order. ECF Nos. 98 and 100. The Plaintiff filed a response to the Defendants' Motion for a Protective Order at ECF No. 104. To avoid any confusion and ensure the record is clear, the court denied Defendants' Motion for a Protective Order.


Federal Rule of Civil Procedure 26 does not explicitly set a time limit for a motion for a protective order. However, the Court finds—like most other courts—that Rule 26 contains “an implicit requirement that the motion must be timely, or seasonable.” *Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 413 (M.D.N.C. 1991).

Neither party points to mandatory authority that addresses timeliness. Many courts have found that for a Rule 26(c) motion to be timely, it must be made prior to the date set for producing the discovery. *Nutrition Distribution LLC v. Black Diamond Supplements LLC*, 2018 WL 1109556, at *5 (D. Ariz. Mar. 1, 2018). Here, as discussed in the Order to Plaintiff's Motion to Compel, all Defendants were on constructive notice, at last as of April 2020, that Plaintiff was

1 seeking certain discovery. Defendants knew as of June 2020 that Plaintiff considered all
2 objections waived. All Defendants received further confirmation of this during the meet and
3 confer sessions that took place in August and September of this year and obtained written
4 confirmation as well. ECF Nos. 88-4 and 88-5. Yet, Defendants did not move for a Protective
5 Order until October 27, 2020—and it was only filed as response to Plaintiff's Motion to Compel.
6 The court finds Defendants' Motion for Protective Order untimely and denies it on that basis.

7 IT IS THEREFORE ORDERED that ECF No. 100 is DENIED.

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9 DATED: December 3, 2020

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12 BRENDA WEKSLER
13 UNITED STATES MAGISTRATE JUDGE
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